

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JERRY WAYNE SHUE, JR.,)	1:05-cv-00504-AWI-TAG HC
)	
Petitioner,)	ORDER GRANTING MOTION TO CHANGE
)	NAME (Doc. 23)
v.)	
)	ORDER DIRECTING CLERK OF COURT TO
)	SUBSTITUTE NAME OF NEW WARDEN AS
JOSEPH L. McGRATH, et al.,)	RESPONDENT
)	
Respondents.)	
)	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. This action has been referred to this Court pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72-302.

On January 30, 2006, Petitioner filed an amended petition naming "Joseph L. McGrath, et al." as Respondents. (Doc. 20). On June 26, 2006, Petitioner filed a motion requesting a change in the name of Respondent warden based on Petitioner's transfer from Pelican Bay State Prison to California State Prison-Solano. (Doc. 23).

A petitioner filing a petition for writ of habeas corpus must name the state officer who has custody of the petitioner as the respondent. Rule 2 (a) of the Rules Governing § 2254 cases; Ortiz-Sandoval v. Gomez, 81 F.3d 891, 894 (9th Cir. 1996). Normally, the person having custody of an incarcerated petitioner is the warden of the prison in which the petitioner is incarcerated because the warden has "day-to-day control over" the petitioner. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992); see also Stanley v. California Supreme Court, 21 F.3d 359, 360 (9th Cir. 1994).

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1 In this case, petitioner is presently incarcerated at California State Prison-Solano,
2 Vacaville, California. (Doc. 23). At this time, D.K. Sisto is the warden of that prison.

3 Accordingly, GOOD CAUSE appearing therefor, Petitioner's motion to change the name
4 of Respondent (Doc. 23), is GRANTED. The Clerk of the Court is DIRECTED to substitute
5 D.K. Sisto as Respondent warden in this action.

6
7 IT IS SO ORDERED.

8 Dated: February 22, 2007
9 j6eb3d

/s/ Theresa A. Goldner
UNITED STATES MAGISTRATE JUDGE